



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2147 FAX (603) 271-6588

**LETTER OF DEFICIENCY
WET #SC2003-19**



November 12, 2003

James Confalone
PO Box 415
Rye, NH 03870

**RE: NHDES Wetlands Bureau Complaint File #2002-1906, 41 Causeway Road, Rye Tax 2
/ Lots 2 and 3.**

Dear Mr. Confalone

On November 10, 2003, personnel from the Department of Environmental Services ("DES") conducted an inspection for the above referenced property, more specifically referenced on Rye Tax Map 2 as Lots 2 and 3 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A, the New Hampshire Wetlands Law and RSA 483-B, the Comprehensive Shoreland Protection Act ("CSPA").

During the inspection it was observed that the following violations had occurred:

- 1 The natural woodland buffer area had been clear-cut. As required by the CSPA, the natural woodland buffer shall be maintained within 150 feet of the reference line. The reference line is defined as the highest observable tide line. This action is in contradiction of RSA 483-B:9, V(a) which states that no more than a maximum of 50% of the basal area of trees and a maximum of 50% of the total number of saplings shall be cut for any purpose in a 20 year period. A healthy, well distributed stand of trees, saplings, shrubs, and ground covers must be maintained. A copy of the regulation is enclosed.
- 2 Freshwater wetlands had been dredged and filled, and work has occurred within the tidal buffer zone. RSA 482-A, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in wetlands or the upland tidal buffer zone, an individual is required to obtain a permit and the proposed project must meet NH Code of Administrative Rules Wt 100-700. If work is done without a permit, this is considered a violation of RSA 482-A.

In response, you are requested to take the following actions:

1. Immediately stabilize the exposed soil area on the property by applying temporary seed (eg winter rye) and hay mulch, and if you have not done so, install appropriate erosion/siltation controls.
2. Retain a qualified wetland consultant (see enclosed list) to generate a plan which depicts existing conditions showing the topography of the property, and quantifies by field survey the current extent of disturbance in areas regulated by DES Wetlands Bureau jurisdiction, and the area regulated by the CSPA.

3. Submit plan to DES for approval and coordination of further actions as appropriate (i.e. restoration plantings plan, wetlands application process).

RSA 482-A and RSA 483-B, the New Hampshire Wetlands law and the Comprehensive Shoreland Protection Act, were enacted to protect and preserve wetlands, surface waters and the shoreline from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit from the Wetlands Bureau and comply with the Comprehensive Shoreland Protection Act. If work is done without a permit from the Wetlands Bureau and is not in compliance with the Comprehensive Shoreland Protection Act, this is considered a violation of RSA 482-A and 483-B. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

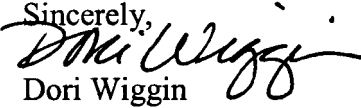
DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A and RSA 483-B will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

David Price, Enforcement Investigator
Wetlands Bureau
Department of Environmental Services
360 Corporate Drive, Suite 2
Portsmouth, NH 03801

Please respond to this letter by December 12, 2003. Should you have any questions regarding this letter, or wish to arrange a meeting, please contact me at (603) 433-6183.

Sincerely,

Dori Wiggin
Coastal Supervisor
DES Wetlands Bureau

CERTIFIED MAIL # 7003 1010 0003 3557 2586

cc: Rene Pelletier, Manager, Land Resources Management Program
Mark Harbaugh, DES Legal Unit
North Hampton Conservation Commission
North Hampton Building Inspector
Rye Conservation Commission
Rye Building Inspector
Ted Diers, NH Coastal Program

List of Qualified Wetland Consultants

NH Soil Consultants, Inc.
1 Simons Lane
Newmarket, NH
659-3559

Jeffery Orchard
PO Box 452
Windham, NH
345-2530

Gove Environmental Services, Inc.
118 Portsmouth Avenue
Stratham, NH
778-0644

Carex Ecosystem Sciences
538 Central Avenue
Dover, NH
742-6665

West Environmental
122 Mast Road
Lee, NH
659-0416

Wetlands Preservation, Inc.
47 Newton Road
Plaistow, NH
382-3435

Seekamp Environmental Consulting
29 South Main St.
Newton, NH
382-3896

B.H. Keith Associates
PO Box 326
Freedom, NH
539-8343

Joseph Noel
PO Box 174
South Berwick, ME
(207) 384-5587

Wetland Consulting Services
15 Bisson Lane
Merrimac, MA
(978) 346-9857